

UNITED STATES OF AMERICA
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA)	
)	
v.)	
)	CRIMINAL NO. 07-CR-189-GZS
DANIEL RILEY,)	
)	
Defendant)	

FINDINGS AFFECTING SENTENCE

I FIND as follows:

1. The facts as set forth in the Presentence Report, as amended by the Addendum.

Count One – Conspiracy to Prevent Officers of the United States from Discharging Their Duties.

2. United States Sentencing Commission Guideline (hereinafter "Guideline") 2X1.1 for violation of 18 U.S.C. § 372 provides for a base offense level of 14. The offense involved threatening to cause physical injury to a person in order to obstruct the administration of justice; therefore, pursuant to 2J1.2(b)(1)(B) the base offense level is increased by 8 to 22. The offense resulted in substantial interference with the administration of justice; therefore, the base offense level is increased by 3 to 25.

Count Two A – Conspiracy to Commit Offenses Against the United States in Violation of 18 U.S.C. § 111(a)(1).

3. United States Sentencing Commission Guideline (hereinafter “Guideline”) 2A2.4 for violation of 18 U.S.C. §§ 371 and 111(a)(1) provides for a base offense level is 10.

4. The defendant willfully obstructed or impeded the administration of justice with respect to the investigation, prosecution or sentencing of the instant offense; therefore, pursuant to § 3C1.1, 2 levels are added for a total of 12.

Pseudo Count Two B – Conspiracy to Commit Offenses Against the United States in Violation of 18 U.S.C. § 3,

5. United States Sentencing Commission Guideline 2X3.1 for violation of 18 U.S.C. § 3 provides that the base offense level is 6 levels lower than the offense level for the underlying offense and shall not be less than level 4 or more than level 30. The underlying crime is obstruction of justice; therefore, pursuant to 2J1.2, the base offense level is 14. The offense involved threatening to cause physical injury to a person in order to obstruct the administration of justice; therefore, pursuant to 2J1.2(b)(1)(B) the base offense level is increased by 8 for a total of 22. The offense resulted in substantial interference with the administration of justice; therefore, the base offense level is increased by 3 for a total of 25. However, this figure is then reduced by 6 levels for a base offense level of 19.

6. The defendant willfully obstructed or impeded the administration of justice with respect to the investigation, prosecution, or sentencing of the instant offense; therefore, pursuant to 3C1.1 2 levels are added for a total base offense level of 21.

Count Three – Accessory After The Fact

7. United States Sentencing Commission Guideline 2X3.1 for violation of 18 U.S.C. § 3 provides that the base offense level is 6 levels lower than the offense level for the underlying offense and shall not be less than level 4 or more than level 30. The substantive offense is obstruction of justice; therefore, pursuant to 2J1.2 the resulting base offense level is 14. The instant offense involved threatening to cause physical injury to a person in order to obstruct the administration of justice; therefore, pursuant to 2J1.2(b)(1)(B), the base offense level is increased by 8 for a total of 22. The offense resulted in substantial interference with the administration of justice; therefore, pursuant to § 2J1.2(b)(2), 3 levels are added for a total of 25. However, this figure is then reduced by 6 levels for a base offense level of 19.

8. The defendant willfully attempted to obstruct the administration of justice with respect to the investigation, prosecution, or sentencing of the instant offense; therefore, pursuant to § 3C1.1 2 levels are added for a total of 21.

Count Six – Carrying, Using and Possessing a Firearm in Connection with a Crime of Violence

9. The United States Sentencing Commission Guideline for a violation of 18 U.S.C. § 924(c) is found in U.S.S.G. § 2K2.4(b) which states that the guideline sentence shall be the minimum term of imprisonment required by statute, which in this case is thirty years pursuant to 18 U.S.C. § 924(c)(1)(B)(ii).

10. Pursuant to the Multi-Count Adjustment contained in § 3D1.4, the combined adjusted offense level is 27.

11. Defendant's Criminal History Category is Category II.

12. For a Total Offense Level of 27 and a Criminal History Category of II, the applicable Guideline range is 78 to 97 months.

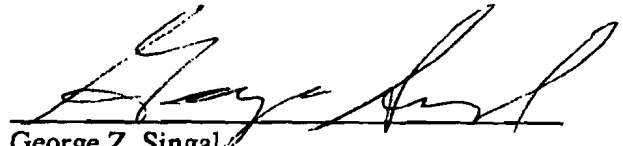
13. The defendant is not eligible for probation. Guideline 5B1(b)(1).

14. Pursuant to U.S.S.G. § 5D1.2(a)(1), the term for supervised release is at least three years but not more than five years.

15. Pursuant to U.S.S.G. § 5E1.2(c)(4), the fine range for the instant offense is from \$12,500 to \$125,000.

16. A total special assessment fee of \$400, \$100 for each count of conviction, is mandatory, pursuant to 18 U.S.C. § 3013.

SO ORDERED.


George Z. Singal
Chief United States District Judge

Dated this 29th day of October, 2008.
